

SEP 8 1997

PATRICK FISHER
Clerk

PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

In re:

MICHAEL C. WASHINGTON,
Petitioner.

No. 97-731

ORDER
Filed September 8, 1997

Before BALDOCK and BRORBY, Circuit Judges.

Petitioner Michael C. Washington has filed for a writ in the nature of mandamus under the All Writs Act, 28 U.S.C. § 1651. He also seeks leave of this court to proceed with his petition without the prepayment of fees, and has submitted the necessary forms and declarations. Because we conclude that 28 U.S.C. § 1915(g) prevents petitioner from proceeding in forma pauperis in this proceeding, we deny petitioner leave to proceed without prepayment of fees.

“Section 1915(g) generally prevents a prisoner from proceeding in forma pauperis in civil actions if three or more of his prior suits have been dismissed as frivolous or malicious, or for failure to state a claim.” Green v. Nottingham, 90 F.3d 415, 418 (10th Cir. 1996). As in Green, petitioner here has filed three or

more such actions. See Washington v. Loving, No. 96-6192, 1997 WL 111259, at **2 (10th Cir. March 13, 1997) (affirming the district court’s dismissal of petitioner’s complaint as “legally meritless and factually baseless”); Washington v. Loving, No 94-6466, 1995 WL 421131, at **1 (10th Cir. July 18, 1995) (commenting that petitioner had filed four frivolous actions in the Western District of Oklahoma and sixteen frivolous actions in the Eastern District of Oklahoma). Petitioner’s history satisfies the requirements of § 1915(g).

In Green this court concluded that petitions for mandamus qualify as “civil actions” under § 1915(g). See 90 F.3d at 418. Accordingly, petitioner cannot file this petition without prepayment of costs or fees. Further, we direct the clerk of this court not to accept from petitioner any future filings of extraordinary writs in noncriminal matters or appeals of judgment in civil actions or proceedings unless he first pays the applicable filing fees, except in those instances that petitioner’s filings claim that he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

Petitioner’s request to proceed in forma pauperis is denied. Petitioner may resubmit his petition by paying the required filing fee, see 10th Cir. R. 21.1.

Entered for the Court
PATRICK FISHER, Clerk